

# Exhibit C



Jennifer Dodge &lt;jdodgelaw@jenniferdodgelaw.com&gt;

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**19-30088 PG&E Corporation - Greenberg**

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**Richard Lapping** <rich@trodelalapping.com>  
To: Jennifer Dodge <jdodgelaw@jenniferdodgelaw.com>  
Cc: Thomas Rupp <trupp@kbklp.com>

Wed, Feb 9, 2022 at 3:37 PM

Jennifer and Tom,

The proposed changes to the scheduling order are acceptable. I made two corrections to avoid confusion. On page 5, line 26, there was an extra change indicated where you must have amended your date change. I removed it so that it will make sense to the Court. The same thing happened at page 12:4, where a 3 crept in.

The comments to the stipulation are okay except that we should say we are separately submitting the revisions. If you say submitted herewith, the redline has to be in the record, and that is not what the Court asked us to do. We need to submit by email to Ms. Thomas (she/her). So I made that change. Why are we calling it a joint stipulation? No such thing as a unilateral stipulation.

Finally, attached is a proposed order. Let me know if we have it all resolved and I will file the stipulation indicating you signed off, and upload the order once I have the docket number.

Rich Lapping

415-200-9407

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**3 attachments**

**Stipulation to continue trial date v.2.docx**  
38K



**Order on Stipulation to continue trial date v.2.docx**  
36K

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**Joint comments to Greenberg Updated Trial Scheduling Order by Zoom .docx**

47K

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7 UNITED STATES BANKRUPTCY COURT  
8 NORTHERN DISTRICT OF CALIFORNIA  
9

10 In re: ) Bankruptcy Case  
11 PG&E CORPORATION, ) No. 19-30088-DM  
12 ) Chapter 11  
13 - and - )  
14 ) Jointly Administered  
15 PACIFIC GAS AND ELECTRIC )  
16 COMPANY, )  
17 ) Date: June 28-29, 2022  
18 Reorganized Debtors. ) Time: 9:00 AM  
19 ) Via Zoom Video  
20 )  
21 ☐ Affects PG&E Corporation )  
22 ☐ Affects Pacific Gas and )  
23 Electric Company )  
24 ☒ Affects both Debtors )  
25 )  
26 \* All papers shall be filed in )  
27 the Lead Case, No. 19-30088 )  
28 (DM). )  
29 )  
30 )

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33 **SCHEDULING ORDER FOR REMOTE TRIAL**  
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35 On December 21, 2021, the Court held a scheduling  
36 conference on Reorganized Debtors' objections to the claims of  
37 Todd Greenberg ("Claimant") (See claims ##77335, 76018 and  
38 78381, Fortieth Omnibus Objection to Claims (Dkt. No. 9455), and  
39 One Hundred Tenth Omnibus Objection to Claim (Dkt. No. 11420)).

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1 Jennifer L. Dodge and Thomas B. Rupp appeared for the  
2 Reorganized Debtors. Richard A. Lapping appeared for the  
3 Claimant.

4 Upon due consideration, the Court hereby enters the  
5 following scheduling order.

6 **TRIAL**. The trial or hearing ("Trial") on the above matters  
7 will commence on the Date and Time of Trial, set forth below and  
8 to be held via Zoom Video. The Time Reserved for Trial is also  
9 shown below. During the week prior to the Trial, the Court may  
10 move the starting time or day. The Court's Calendar  
11 Clerk/Courtroom Deputy will advise the parties of any such  
12 change by telephone or e-mail. **All parties are cautioned to be**  
13 **prepared to adjust their schedules accordingly.**

14 The Court is closed to an in-person trial as a result of  
15 the dangers presented by the COVID-19 pandemic. In accordance  
16 with Federal Rule of Civil Procedure 43(a), made applicable here  
17 by Federal Rule of Bankruptcy Procedure 9017, for good cause in  
18 compelling circumstances and with appropriate safeguards, the  
19 Court may permit testimony by contemporaneous transmission from  
20 a location other than the courtroom. The Court finds that the  
21 public danger presented by the COVID-19 pandemic merits  
22 application of this rule as to all witnesses who may remotely  
23 testify at the Trial, through the use of video conferencing  
24 technology.

25 Further, the Court finds that these procedures will provide  
26 adequate safeguards for purposes of Federal Rule 43(a) and  
27 ensure due process of law. These procedures will (i) enable the  
28 Court to identify, communicate with, and judge the demeanor of

1 all witnesses in real time, (ii) enable counsel for the parties  
2 to see and hear the witness testimony, interpose objections, and  
3 communicate with the Court in real time, (iii) enable the  
4 parties, the witnesses and the Court to have simultaneous access  
5 to an identical set of pre-marked exhibits, (iv) avoid any undue  
6 influence or interference with the witnesses in connection with  
7 their testimony, and (v) preserve the ability of any witness to  
8 be represented by counsel during the proceeding, and to  
9 communicate with such counsel as the Court deems appropriate.

10 Participants in the Trial will be connected with the  
11 courtroom but will not be physically present. The Court staff  
12 will provide a link or URL (internet address) to the persons  
13 identified by the parties.

14 Each participating attorney and each witness must have  
15 simultaneous access to a computer, equipped with a camera, that  
16 is capable of receiving and transmitting audio and video, or a  
17 tablet or smart phone, that satisfy the following requirements:

18 (1) Internet browsing software that is adequate to facilitate  
19 the Court's video hearing provider, (2) an Internet connection  
20 with bandwidth adequate to support the individual's use of the  
21 video hearing provider, and (3) Adobe Acrobat Reader for  
22 purposes of reviewing exhibits, as directed by counsel or the  
23 Court. The device must have sufficient video and audio  
24 capabilities to allow the speaker to hear and be heard by other  
25 participants on a consistent basis. Further, the attorney or  
26 witness using it must be situated in a location with wi-fi,  
27 cellular, or other service adequate to provide clear audio and  
28 video.

1 No later than June 14, 2022, the parties shall provide to  
2 the courtroom deputy (Ms. Lorena Parada,  
3 Lorena\_Parada@canb.uscourts.gov, 415-268-2323), and to each  
4 other, a list of all attorneys and witnesses who will  
5 participate in the Trial, together with an email address and  
6 telephone number for each. The telephone number provided should  
7 be a number at which the attorney or witness can be reached  
8 during the Trial in the event of an interruption of the video or  
9 audio feed. This requirement is in addition to any requirements  
10 previously or subsequently established by the Court for the  
11 parties to disclose to each other, by a date certain, the  
12 identity of the witnesses they intend to present at trial.

13 **MOTIONS.** Unless otherwise ordered, (a) a motion by the  
14 Claimant to amend any of the three claims must be heard no later  
15 than March 15, 2022 and (b) motions for summary judgment must be  
16 heard no later than June 7, 2022.

17 **DISCOVERY.** Discovery shall be completed by the Discovery  
18 Deadline shown below. Completion means that depositions must be  
19 concluded, although not necessarily transcribed. As to written  
20 and production discovery, responses must be due before the  
21 Discovery Deadline. The Court will attempt to resolve all  
22 discovery disputes on an expedited basis via telephonic  
23 conference, which any party may initiate by request to Ms.  
24 Parada, and notice to the other party after they have met and  
25 conferred and made a good faith effort to resolve the dispute.  
26 The party requesting the conference should submit a brief letter  
27 or e-mail to Ms. Parada explaining the issues to be presented;  
28

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amend the pleadings

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Order

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Time of Trial.

1 the other party may submit a brief letter or e-mail in the same  
2 manner.

3 The Discovery Deadline may be extended by the parties by  
4 agreement, without an order of the Court.

5 **EVIDENCE.** Declarations of non-expert witnesses will not be  
6 considered except by stipulation of the parties or prior Court  
7 approval.

8 **PRE-TRIAL SUBMISSIONS.** Not later than 14 calendar days  
9 before the Date and Time of Trial, each party shall:

10 (a) File and serve copies of a trial brief, which shall  
11 include a summary of the facts to be proven and the legal  
12 theories on which the party relies. Briefs shall not exceed 15  
13 pages without prior permission of the Court. The Court will not  
14 normally request or permit post-trial briefs.

15 (b) File and serve a witness list, including a brief  
16 summary of the anticipated testimony from each witness. If a  
17 party to the matter will be called as a witness (even as an  
18 adverse witness) that party's name must be included on the  
19 witness list. The presence of a witness' name on the witness  
20 list is to alert the Court and the other side that the witness  
21 may be called. It does not mean that that person will be  
22 called. Accordingly, each party is responsible for ensuring the  
23 attendance of every witness the party intends to call, whether  
24 or not named by the other side. Except in exceptional  
25 circumstances, absent consent by the other side, a party will  
26 not be allowed to call a witness not named on that party's  
27 witness list. This subparagraph shall not apply to impeachment,  
28 rebuttal or expert witnesses or their testimony.

**Deleted:** On motions for relief from stay, testimonial evidence at the Trial must be presented by written declaration(s) or deposition excerpt(s), unless the Court by order allows oral testimony. B.L.R. 4001-1(e). Any motion for permission to introduce any oral testimony (including by cross-examination of the other party's declarant(s) or deponent(s)) shall be filed and served no later than 14 calendar days before the Date and Time of Trial and shall include the names of the witnesses, the subject of their expected testimony, and, where applicable, a statement of the reasons why the testimony cannot properly be introduced by declaration(s) or deposition excerpt(s). Any opposition shall be filed and served no later than 10 calendar days before the Date and Time of Trial. The Court will rule on the motion without a hearing. No such motion is required for cross-examination or redirect examination of expert witnesses.  
On matters other than motions for relief from stay, d

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1 (c) [Reserved]

**Deleted:** On motions for relief from stay, file and serve (i) a notice identifying any declaration(s), deposition excerpt(s) or memoranda previously filed in connection with the preliminary hearing and (ii) any additional declarations the party wishes the Court to consider.

2 (d) File and serve a list of exhibits the party intends to  
3 introduce into evidence (other than those to be used for  
4 impeachment or rebuttal). Exhibits that are already on the  
5 Court's docket do not need to be served but must be listed by  
6 docket number and a brief description. Copies of all exhibits  
7 not already on the docket must be produced as separately titled  
8 pdf files, identifying each exhibit by exhibit number or letter  
9 and a brief description. Lengthy exhibits should be bookmarked  
10 in order to allow counsel, witness and the Court to readily  
11 access the relevant portion(s) of the exhibit.

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12 Those exhibits shall also be emailed to

13 [Montali\\_Orders@canb.uscourts.gov](mailto:Montali_Orders@canb.uscourts.gov).

14 Upon receipt of the electronic documents, each attorney and  
15 witness shall take the steps necessary to ensure that all  
16 electronic documents can be successfully opened and are readily  
17 available during the Trial.

18 Exhibits to be used solely for rebuttal or impeachment  
19 shall be encrypted in pdf format with a simple user-friendly  
20 password. They will be emailed to counsel, the parties, the  
21 courtroom deputy only and identified and marked as such when  
22 directed by the Court.

23 (e) Reorganized Debtors' exhibits should be marked by  
24 number and Claimant's exhibits should be marked by letter.

25 **CONDUCT OF TRIAL VIA VIDEO. Any witness called to testify**  
26 **at the Trial shall testify by contemporaneous transmission from**  
27 **a different location into the video courtroom (each a "Remote**  
28 **Witness").**

1 (a) Each Remote Witness shall be placed under oath and  
2 their testimony shall have the same effect and be binding upon  
3 the Remote Witness in the same manner as if such Remote Witness  
4 were sworn and testified in open court.

5 (b) Each Remote Witness shall provide their testimony from  
6 a quiet room and must situate themselves in such a manner as to  
7 be able to both view the video and be seen by the Court.

8 (c) While the Remote Witness is sworn and testifying: (i)  
9 no person may be present in the room from which the Remote  
10 Witness is testifying, (ii) the Remote Witness may not have in  
11 the room any documents except the exhibits submitted by the  
12 parties pursuant to this order and any declaration submitted in  
13 lieu of direct testimony, and (iii) may not communicate with any  
14 other person regarding the subject of their testimony, by  
15 electronic means or otherwise. If the witness or their counsel  
16 seek to communicate with one another, either shall openly  
17 request a recess for such purpose. If such request is granted  
18 by the Court, the witness and their counsel may privately confer  
19 "offline," i.e., by telephonic means that are not transmitted to  
20 the other parties.

21 (d) Remote Witnesses who are testifying as experts must  
22 provide advance direct testimony by declaration submitted by the  
23 parties pursuant to this order. Remote Witnesses shall be  
24 available for cross examination. Failure of a Remote Witness to  
25 be available for cross examination may result in striking of the  
26 Remote Witness's declaration.

27 EXPERTS. The presentation of expert testimony at Trial  
28 shall be governed by the following:

1 (a) Direct evidence shall be presented by a declaration  
2 that authenticates the report of the expert. See FRCP  
3 26(a)(2)(B), incorporated via Fed. R. Bankr. P. 7026. Each  
4 party shall file and serve declarations of experts and other  
5 documentary evidence related thereto no later than **30** calendar  
6 days prior to the Discovery Deadline.

**Deleted:** ; provided, however, on motions for relief from stay, such declarations shall be filed and served no later than **14** calendar days prior to the Date and Time of Trial

7 (b) To cross-examine an opposing party's expert declarant,  
8 a party shall notify the opposing party in writing or by e-mail  
9 at least **3 court** days before the Date and Time of Trial, in  
10 which case the declarant will be required to be available to  
11 appear at Trial via Zoom. Any party who fails to notify the  
12 opposing party will not be permitted to cross-examine the  
13 opposing party's expert. Any party who requests the right to  
14 cross-examine an expert and then does not do so will be expected  
15 to reimburse the opposing party no less than the expenses  
16 incurred in producing the expert at the Trial.

17 If either party anticipates the use of rebuttal expert  
18 testimony, counsel should meet and confer regarding the timing  
19 of disclosure of such expert, the submission of the expert's  
20 report and discovery regarding such expert. If the parties do  
21 not reach agreement, the matter should be brought before the  
22 Court in the same manner as discovery disputes as provided in  
23 this order.

24 **PRE-TRIAL OBJECTIONS.** Promptly after receipt of the items  
25 mentioned in **PRE-TRIAL SUBMISSIONS**, above, each party must  
26 advise the opposing party of any objections to the introduction  
27 of testimony or exhibits. Parties must meet and confer before  
28 Trial to attempt to reach agreement regarding admissibility.

1 The Court expects the parties to make good faith efforts to  
2 resolve all evidentiary issues.

3 **MOTIONS IN LIMINE.** If efforts to resolve disputes regarding  
4 the introduction of testimony or exhibits are unsuccessful,  
5 motions in limine should be filed and served no later than **4**  
6 **court** days before the Date and Time of Trial. Such motions  
7 should include a certification that the moving party has  
8 complied in good faith with the meet and confer requirements of  
9 the preceding paragraph. Opposition should be filed and served  
10 no later than **1 court** day before the Date and Time of Trial.  
11 Motions in limine will be heard at the commencement of Trial.

12 Notwithstanding the foregoing, if a party intends by a  
13 motion in limine to exclude an expert or the expert's report,  
14 that party should set the motion on the Court's regular law and  
15 motion calendar, to be heard at least **7** calendar days before the  
16 Date and Time of Trial.

17 **STIPULATIONS.** At the commencement of Trial, the parties  
18 must be prepared to stipulate into evidence all exhibits that  
19 are admissible for at least one purpose. Bona-fide objections  
20 may be reserved, with the issue of admissibility deferred until  
21 the exhibit is offered into evidence.

22 **ORDER OF PRESENTATION AT TRIAL.** Unless otherwise agreed by  
23 the parties or ordered by the Court, the Claimant will present  
24 his case-in-chief first.

25 **IMPEACHMENT AND REBUTTAL WITNESSES.** The requirement of  
26 advance identification of witnesses and production of exhibits  
27 does not apply to witnesses and exhibits presented for purposes  
28

1 of impeachment or rebuttal.<sup>1</sup> This paragraph supersedes the  
2 expert disclosure procedure of FRCP 26(a)(2)(D)(ii),  
3 incorporated via Fed. R. Bankr. P. 7026.

4 **DEMONSTRATIVE EVIDENCE.** The Court does not want charts,  
5 power point presentations, whiteboards, or similar large display  
6 items to be used during trial. Parties desiring to summarize,  
7 reproduce or display evidence may use the "Share Screen" feature  
8 in Zoom, subject to the Court's permission. Any exceptions to  
9 this policy should be requested well in advance of trial.

10 **NOTICE TO COURT.** No later than the Monday of the week prior  
11 to the Date and Time of Trial, counsel for the Reorganized  
12 Debtors **must** telephone or e-mail the Court's Calendar  
13 Clerk/Courtroom Deputy, Ms. Lorena Parada (415-268-2323;  
14 Lorena\_Parada@canb.uscourts.gov) and report: whether the parties  
15 intend to go forward with the Trial as scheduled; if settlement  
16 is likely; whether the time reserved for the Trial is realistic;  
17 and any other relevant information.

18 **NON-COMPLIANCE.** Any failure of a party to comply timely  
19 with this scheduling order may result in judgment against such  
20 party, removal of the Trial from calendar, exclusion of evidence  
21 or imposition of monetary or non-monetary sanctions. See FRCP  
22 16(f)(1)(C), incorporated via Fed. R. Bankr. P. 7016.

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24 <sup>1</sup> The proper function of rebuttal evidence is to contradict,  
25 impeach or defuse the impact of the evidence offered by an  
26 adverse party. Testimony offered only as additional support to  
27 an argument made in a case in chief is improper on rebuttal.  
28 Peals v Terre Haute Police Dept., 535 F.3d 621, 630 (7th Cir.  
2008); see also Daly v. Far Eastern Shipping Co., 238 F.Supp.2d  
1231, 1238 (W.D. Wash. 2003), aff'd 108 Fed. Appx. 476 (9th Cir.  
2004).

1 **DATE AND TIME OF TRIAL:** June 28 and 29, 2022 beginning at  
2 9:00 AM

3 **TIME RESERVED FOR TRIAL:** Two days

4 **DISCOVERY DEADLINE:** May 20, 2022

5 **PRE-TRIAL STATUS CONFERENCE:** The Court will conduct a pre-  
6 trial status conference on \_\_\_\_\_, 2022 at 11:00 AM via  
7 Zoom. In addition to normal business, counsel and the Court  
8 will test the adequacy of all parties' audio and video  
9 connections and other matters related to the conduct of the  
10 remote trial. The Court expects counsel to take similar steps  
11 prior to trial (but without court involvement) to assure proper  
12 connections with their respective clients and witnesses.

13 **OTHER PROVISIONS:** Although conducted using video  
14 conferencing technology, the Trial constitutes a court  
15 proceeding. No person shall record, from any location or by any  
16 means, the audio or video of the Trial. The audio recording  
17 created and maintained by the Court shall constitute the  
18 official record of the Trial. Further, the formalities of a  
19 courtroom shall be observed. Counsel and witnesses shall dress  
20 appropriately, exercise civility, and otherwise conduct  
21 themselves in a manner consistent with the dignity of the Court  
22 and its proceedings.

23 \*\*END OF ORDER\*\*  
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Deleted: April 18 and 19

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COURT SERVICE LIST

ECF Recipients